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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,394	03/06/2001	Paul E. Newson	MSFT-0237/147839.2	3296
41505 7590 08/19/2008 WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION) CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891				
EXAMINER SWEARINGEN, JEFFREY R				
ART UNIT 2145		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/800,394

**Applicant(s)**

NEWSON ET AL.

**Examiner**

Jeffrey R. Swearingen

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 and 64-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 64-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 6/24/08 have been fully considered but they are not persuasive.
2. Applicant argued that Ulrich failed to disclose different network layers, different session topologies, or different sets of devices that can be directly addressed in each topology. Applicant argued that Ulrich failed to disclose a set of devices to which data may be directly addressed in said second layer different from said set of devices to which data may be directly addressed in said first layer. Applicant argued that Ulrich failed to disclose addressing a first data package to a destination device in accordance with said second session topology, and sending said first data package to said destination device according to said first session topology.
3. Initially, Applicant failed to explicitly define what is meant by a session topology. Applicant gave examples of an audio topology, but not a session topology in the specification.
4. Applicant failed to address the concise explanation on page 4, paragraph 12 of the prior office action of 3/5/2008, which showed how the overall Ulrich disclosure was analogous to Applicant's invention as claimed and described in the specification. Column 8, lines 42-67 is directly analogous to Applicant's specification as originally filed, page 20, lines 15-28.
5. In column 8, lines 42-67, the first layer is the data topology for transmission of data communications between the networked computers. The second layer is the audio topology for transmission of audio communications between headsets. As Applicant's invention is understood from the claims and specification, the audio and data are transmitted separately on different channels. Ulrich likewise separates the audio and data transmission. The headsets and microphones are the devices to which data may be directly addressed in said second layer different from said set of device to which data may be directly addressed in said first layer. The audio transmission and the data transmission are both separate network layers, separate session topologies, and go to separate devices (computer and microphone/headset). The phone line is multiplexed - allowing for direct addressing of both data and audio in different network layers, according to different topologies. Addressing the first data package to a destination device in accordance with said second session topology is packaging the audio data, and

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sending it to a destination device according to the first session topology is transmitting the audio data on the multiplexed line with the data communications.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8 and 64-70 are rejected under 35 U.S.C. 102(b) as being anticipated by Ulrich et al. (US 5,466,200).

8. In regard to claims 1, 8, Ulrich disclosed:

*joining a session in a second layer of the network, said second layer having a second session topology which defines a second set of one or more of said second devices to which data may be directly addressed from said first device in said second layer, said second set of devices to which data may be directly addressed from said first device in said second layer being different from said first set of devices to which data may be directly addressed from said first device in said first layer, said destination device being a member of said second set; column 5, line 60 – column 6, line 1; column 9, lines 26-44*

*creating a first data package which contains: (a) said first data; and (b) a header; column 8, lines 1-43*

*addressing said first data package to said destination device in accordance with said second session topology; column 8, lines 42-67*

*sending said first data package to said destination device according to said first session topology. Column 8, lines 42-67*

9. In regard to claims 2, 64, Ulrich further disclosed:

*said first device is communicatively coupled to a microphone, and column 8, lines 44-52 capturing said first data using said microphone. Column 8, lines 44-52*

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10. In regard to claims 3, 65, Ulrich further disclosed:

*said destination device is not a member of said second set, column 8, lines 42-67*  
*appending a header to said first data package which indicates that said first data package is to be delivered to said destination device; and column 8, lines 42-67*  
*sending said first data package to a host device different from said destination device, said host device being a member of said first set. Column 8, lines 42-67*

11. In regard to claims 4, 66, Ulrich further disclosed:

*said destination device is a member of said first set. Column 8, lines 42-67*

12. In regard to claims 5, 67, Ulrich further disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; and column 8, lines 42-67*

*said host device sending to said destination device a mixed stream comprising said first data and said second data. column 8, lines 42-67*

13. In regard to claims 6, 68, Ulrich further disclosed:

*in said host device, receiving a second data package from a second device, said data package comprising: (a) second data; and (b) a header which indicates that said data package is to be delivered to said destination device; and column 8, lines 42-67*

*said host device sending said first and second data packages separately to said destination device. Column 8, lines 42-67*

14. In regard to claims 7, 69, Ulrich further disclosed:

*said sending act comprises sending said first data package using non-guaranteed delivery. Column 8, lines 42-67*

15. In regard to claim 70, Ulrich disclosed:

*joining a session in an audio layer of the network, said audio layer having a second session topology that is different from the first topology and comprises one of either a peer-to-peer topology, a forwarding topology, a mixing topology or an echo topology and which defines a*

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*second set of one or more of said second devices to which data may be directly addressed from said first device in said audio layer, said second set of devices to which data may be directly addressed from said first device in said audio layer being different from said first set of devices to which data may be directly addressed from said first device in said session/transport layer, said destination device being a member of said second set; column 5, line 60 – column 6, line 1; column 9, lines 26-44*

*creating a first data package which contains: (a) said first data; and (b) a header; column 8, lines 1-43*

*addressing said first data package to said destination device in accordance with said second session topology of said audio layer; column 8, lines 42-67*

*sending said first data package to said destination device according to said first session topology of said session/transport layer. Column 8, lines 42-67*

16. Applicant's invention (as explained in the specification) is directed toward the transmission of data and audio over separate "layers" between members of an online gaming community. Ulrich creates a large-scale broadcasting network where all concurrent users of the simulated environment receive all data, and specialized audio messages to a smaller "region" of the simulated environment broadcast by users over a microphone.

### **Conclusion**

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
18. Bobick et al. US 5,890,995
19. Browne US 5,921,891
20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

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of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/  
Primary Examiner, Art Unit 2145

/J. R. S./  
Examiner, Art Unit 2145